NOTES OF CASES.

Service of Process under the Clayton Act.—That a corporation has an agent in a district other than the state of its incorporation does not authorize service of process on the agent unless he acts in a representative capacity in the transaction of business. The Clayton Act permits service of process upon the corporation in its home district in actions brought in any other district. This is preferable to service on the agent, as it eliminates all question as to the character of his employment. Such is the view of the United States District Court, for the District of Maryland, in Frey & Son, Inc., *v* Cudahy Packing Co., 228 Federal Reporter, 200.

The court's opinion, delivered by Judge Rose, reads in part: "Provided the defendant is suable at all in the district, why not see to it that it shall be summoned in a way to which no possible objections can be made, and which cannot create a dangerous precedent? Whenever upon grounds not obviously frivolous the question is raised as to the authority of the agent upon whom process was served, why cannot the court suspend its answer until the plaintiff has had due process served, as the Clayton Act authorizes, in the home district of the defendant, upon some of its officers whose right to accept service for it cannot be gainsaid? When such service has been made, the question as to whether the earlier one was or was not good will have become so purely academic that there will seldom be an occasion to answer it at all. Such course will be followed in this case provided plaintiff acts with reasonable diligence in causing process to be served upon the defendant in the district of its residence."

Equity; Jurisdiction; Removing Cloud on Title to a Chose in Action.—Complainant, by an assignment absolute on its face, transferred to his mother his interest in a life insurance policy made payable to himself. After the death of his mother he brought a bill in equity to reform the assignment to conform to the alleged agreement that the policy should revert to him in case his mother died first. Certain distributees, residents of foreign states, were served by publication. On demurrer to the jurisdiction of the court over such non-residents, it was held that the action was quasi in rem and that, since the court had before it the res, the claim against the insurance company, it could render a valid decree settling the rights of the parties under the policy (Perry *v.* Young, Tenn., 1916, 182 S. W. 577).

Assuming that the situs of the claim against the company was in any jurisdiction where it could be served with process through a duly accredited agent (see 16 Columbia Law Rev., 414) the court, under the statutes, could render a valid decree in rem, provided the nature of the claim presented a proper ground for invoking the ju-

risdiction of equity. The jurisdiction of equity to remove a cloud on title to realty is well recognized, and the maxim that equity acts in personam has no application where the power is conferred by statute (Arndt *v.* Griggs, 1890, 134 U. S. 316, 10 Sup. Ct. 577; Morris *v.* Graham, C. C., 1892, 51 Fed. 53). Equity may, in a similar manner, take jurisdiction to remove a cloud on the title to a chose in action (Ryan *v.* Seaboard, etc., R. R., C. C., 1897, 83 Fed. 889; Lockwood *v.* Brantly, N. Y., 1883, 31 Hun 155), and it is no objection to an order for publication based on such a bill that the complaint asks more relief than can be obtained without personal service (Chesley *v.* Morton, 1896, 9 App. Div. 461, 41 N. Y. Supp. 463). Such a proceeding is one quasi in rem (see Sohege *v.* Singer Mfg. Co., 1907, 73 N. J. Eq., 567, 68 Atl. 64). It is especially to be noted that the courts of at least one jurisdiction have been exceptionally liberal in granting relief to determine the rights of parties under an insurance policy because of its peculiar nature (see Cohen *v.* N. Y., etc., Ins. Co., 1872, 50 N. Y. 610, 624; Langan *v.* Supreme Council, 1903, 174 N. Y. 266, 66 N. E. 932; Hadley *v.* Travelers' Ins. Co., 1910, 68 Misc. 359, 125 N. Y. Supp. 88). It has sometimes been said that the proper remedy for the insurance company where there are adverse claimants is by an action of interpleader (see Bullowa *v.* Provident, etc., Co., 1908, 125 App. Div. 545, 109 N. Y. Supp. 1058; Gleason *v.* Northwestern, etc., Ins. Co., 1911, 203 N. Y. 507, 97 N. E. 35), but in the principal case such remedy could not be available since the distributees of the assignee would not be entitled to recover upon the policy until the death of the complainant. Columbia Law Review, June, 1916.

Criminal Law—Reopening Case During Argument.—In State *v.* Ricker, in the Supreme Court of Errors of Connecticut (March, 1916, 96 Atl. 941), it was held that the action of the trial court in permitting a State's witness, during the arguments, after he had had opportunity to confer with other interested parties, to correct his testimony given on cross-examination, the importance of which did not appear until argument, was proper where the accused was given opportunity for testimony in rebuttal, it appearing that the party requesting the action had been fair and diligent in trying his cause in the regular way. The following is from the opinion:

"The assignments of error chiefly relied on are those which attack the action of the trial court in reopening the cause, during the arguments, to permit the State's witness Houghton to correct his testimony. In criminal as well as in civil cases the court has discretionary power to permit the cause to be reopened after arguments have commenced. The following cases were so reopened to permit proof of the venue, after counsel for the accused had claimed in argument that no such proof had been made: Pond *v.* State (55 Ala. 196); State *v.* Teissedre (30 Kan. 476 2 Pac. 650); Commonwealth *v.* Texter (2